



Sen. Debbie DeFrancesco Halvorson

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09300HB4393sam001

LRB093 17919 AMC 50528 a

1 AMENDMENT TO HOUSE BILL 4393

2 AMENDMENT NO. _____. Amend House Bill 4393 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Collection Agency Act is amended by
5 changing Section 2.04 as follows:

6 (225 ILCS 425/2.04) (from Ch. 111, par. 2005.1)

7 (Section scheduled to be repealed on January 1, 2006)

8 Sec. 2.04. Child support indebtedness.

9 (a) Persons, associations, partnerships, or corporations
10 engaged in the business of collecting child support
11 indebtedness owing under a court order as provided under the
12 Illinois Public Aid Code, the Illinois Marriage and Dissolution
13 of Marriage Act, the Non-Support of Spouse and Children Act,
14 the Non-Support Punishment Act, the Illinois Parentage Act of
15 1984, or similar laws of other states are not restricted (i) in
16 the frequency of contact with an obligor who is in arrears,
17 whether by phone, mail, or other means, (ii) from contacting
18 the employer of an obligor who is in arrears, (iii) from
19 publishing or threatening to publish a list of obligors in
20 arrears, (iv) from disclosing or threatening to disclose an
21 arrearage that the obligor disputes, but for which a verified
22 notice of delinquency has been served under the Income
23 Withholding for Support Act (or any of its predecessors,
24 Section 10-16.2 of the Illinois Public Aid Code, Section 706.1

1 of the Illinois Marriage and Dissolution of Marriage Act,
2 Section 4.1 of the Non-Support of Spouse and Children Act,
3 Section 26.1 of the Revised Uniform Reciprocal Enforcement of
4 Support Act, or Section 20 of the Illinois Parentage Act of
5 1984), or (v) from engaging in conduct that would not cause a
6 reasonable person mental or physical illness. For purposes of
7 this subsection, "obligor" means an individual who owes a duty
8 to make periodic payments, under a court order, for the support
9 of a child. "Arrearage" means the total amount of an obligor's
10 unpaid child support obligations.

11 (a-5) A collection agency may not impose a fee or charge,
12 including costs, for any child support payments collected
13 through the efforts of a federal, State, or local government
14 agency, including but not limited to child support collected
15 from federal or State tax refunds, unemployment insurance
16 benefits, or Social Security benefits.

17 If the client has received one or more payments during the
18 12 months prior to execution of the contract with a collection
19 agency, that collection agency may not impose a fee or charge
20 on a current payment of an obligor.

21 As to any fees or charges retained by the collection
22 agency, the agency shall provide documentation to the client
23 demonstrating that the child support payments resulted from the
24 actions of the agency.

25 After collection of the total amount of arrearage,
26 including statutory interest, due on or before the date of
27 execution of the collection contract, no further fees may be
28 charged.

29 (a-6) The Department of Professional Regulation shall
30 determine a fee rate of not less than 25% but not greater than
31 35% based upon presentation by the licensee as to costs to
32 provide the service and a fair rate of return. This rate shall
33 be established by administrative rule.

34 Without prejudice to the determination by the Department of

1 the appropriate rate through administrative rule, a collection
2 agency shall impose a fee of not more than 29% of the amount of
3 child support actually collected by the collection agency
4 subject to the provisions of subsection (a-5). This interim
5 rate is based upon the March 2002 General Accounting Office
6 report "Child Support Enforcement", GAO-02-349. This rate
7 shall apply until a fee rate is established by administrative
8 rule.

9 (a-7) A collection agency shall execute a written
10 contract for the enforcement of child support for each client
11 of the agency. The contract required under this Section must:

12 (1) be in writing, dated, and signed by both parties to
13 the contract;

14 (2) specify its terms in clear language, including:

15 (A) the nature of the services to be provided the
16 client;

17 (B) all fees and charges for services provided by
18 the agency;

19 (C) the opportunities available to the client or
20 the agency to terminate the contract or other
21 conditions under which the contract terminates;

22 (D) the expected duration of the contract, stated
23 as a length of time or as an amount to be collected by
24 the agency as determined on the basis of official
25 government payment records or on the basis of an
26 affidavit of arrears by the client if official
27 government payment records requested by the registered
28 agency on behalf of the client are not made available
29 to the registered agency;

30 (E) the mailing address, telephone numbers,
31 facsimile numbers, and internet address or location of
32 the agency for the purpose of communications between
33 the registered agency and the client or any authorized
34 agent of the client; and

1 (F) a statement that all inquiries that cannot be
2 resolved with the agency should be directed to the
3 Department of Professional Regulation and provides an
4 address, telephone number, and internet address.

5 (3) be reviewed for clarity by an attorney with the
6 Department of Professional Regulation and approved by the
7 Department.

8 (4) contain a provision in a font at least as large as
9 the other provisions of the contract, but no smaller than
10 10-point size, informing the client that, subject to the
11 limitation in subsection (a-5), fees will be assessed on
12 all amounts collected regardless of whether they are
13 designated as current support or arrears.

14 (a-8) A registered agency shall maintain records of all
15 child support collections made on behalf of, and disbursed to,
16 a client who is an obligee, including:

17 (1) the name of and other identifying information
18 relating to any obligor who made child support payments
19 collected by the agency;

20 (2) the amount of support collected by the agency for
21 each client, including:

22 (A) the date on which the amount was collected; and

23 (B) the date on which each amount due the client by
24 the obligor was paid to the client;

25 (3) a copy of the order establishing the child support
26 obligation under which a collection was made by the agency;

27 (4) any other pertinent information relating to the
28 child support obligation, including any case, cause, or
29 docket number of the court having jurisdiction over the
30 matter and official government payment records obtained by
31 the agency on behalf of and at the request of the client;

32 (5) records of all correspondence between the agency
33 and a client or obligor in a case.

34 The records required under this Section must be updated at

1 least monthly and must be maintained by the agency for a period
2 of 4 years from the date of the last support payment collected
3 by the agency on behalf of an obligee.

4 An agency must safeguard case records in a manner
5 reasonably expected to prevent intentional or accidental
6 disclosure of confidential client information, including
7 restricting access to authorized individuals within the agency
8 and providing necessary protections for records maintained in
9 an automated system.

10 A registered agency must timely inform clients of all legal
11 orders, hearings and notices intended for the client that have
12 been sent to the agency by a government child support
13 enforcement agency.

14 (a-9) All information contained in the files of an agency,
15 including information concerning the identity and location of
16 an obligee, an obligor, or any child, is confidential and may
17 not be disclosed to any person, except to the extent permitted
18 under applicable federal and state law to:

19 (1) the Department as required for the purpose of an
20 investigation of a complaint under Article 29 of this Act;

21 (2) a court or administrative tribunal having
22 jurisdiction in the enforcement of a child support
23 obligation; or

24 (3) a government agency authorized by law to enforce
25 child support obligations.

26 (b) The Department shall adopt rules necessary to
27 administer and enforce the provisions of this Section.

28 (Source: P.A. 90-673, eff. 1-1-99; 91-613, eff. 10-1-99.)".